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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

THE DENTIST INSURANCE COMPANY,
a foreign insurer;

v.
Plaintiff,

DENTAL STUDIO 101 MOTHERSHIP,
PLLC, an Arizona professional limited liability
company; OREGON DENTAL STUDIO 101,
LLC, an Oregon limited liability company; and
Alfred M. Borromeo, DDS, an individual;

Defendants.

No. 3:23-cv-1707

**COMPLAINT FOR DECLARATORY
RELIEF**

Plaintiff The Dentist Insurance Company (hereinafter “TDIC”) submits the following
Complaint for Declaratory Relief pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57.

I. INTRODUCTION

1.1 This is an insurance coverage action seeking declaratory relief pursuant to 28
U.S.C. §§ 2201 and 2202. TDIC seeks a determination that it does not owe a duty to defend or
indemnify Alfred M. Borromeo, DDS, under policies of insurance issued by TDIC with respect
to claims against him in *Dental Studio 101 Mothership PLLC v. Oregon Dental Studio 101, LLC*

and Alfred M. Borromeo, Maricopa County Superior Court, AZ, Case No. CV2023-016643 (hereinafter the “Underlying Lawsuit”).

II. PARTIES

2.1 TDIC is a foreign insurer organized under the laws of the State of California with a principal place of business in the State of California.

2.2 Upon information and belief, Defendant Dental Studio 101 Mothership PLLC (hereinafter “Dental Studio 101”) is an Arizona professional limited liability company doing business in Maricopa County, Arizona.

2.3 Upon information and belief, the members of Dental Studio 101 Mothership are citizens and residents of the State of Arizona.

2.3 Upon information and belief, Defendant Oregon Dental Studio 101, LLC (hereinafter “Oregon Dental Studio”) is an Oregon limited liability company doing business in Marion County, Oregon.

2.4 Upon information and belief, the members of Oregon Dental Studio 101 are citizens and residents of the State of Oregon.

2.5 Defendant Alfred M. Borromeo, DDS (hereinafter “Borromeo”) is an individual residing in Oregon and a member of Oregon Dental Studio 101.

III. JURISDICTION AND VENUE

3.1 This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1332 as the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and diversity amongst the parties is complete.

3.2 The Court has jurisdiction over this Declaratory Judgment action pursuant to 28 U.S.C. § 2201 because there is an actual and justiciable controversy between the parties with

respect to the existence of insurance coverage under the policies of insurance issued by TDIC. A judicial determination and declaration of the rights and obligations of the parties is necessary and appropriate at this time because TDIC has no adequate remedy at law which will resolve the current controversy.

3.3 Venue is proper with this Court pursuant to 28 U.S.C. § 1331 and local court rules as this case involves claims for insurance coverage stemming from policy of insurance issued in Oregon, the insured person, Borromeo, is an Oregon resident, and the insured entity is an Oregon limited liability company.

IV. FACTUAL BACKGROUND

A. Underlying Lawsuit

4.1 TDIC reasserts paragraphs 1.1-3.3 as though fully set forth herein.

4.2 On October 23, 2023, Dental Studio 101 filed the Underlying Lawsuit, *Dental Studio 101 Mothership PLLC v. Oregon Dental Studio 101, LLC and Alfred M. Borromeo*, Maricopa County Superior Court, AZ, Case No. CV2023-01664. The Underlying Lawsuit is currently ongoing.

4.3 The Underlying Lawsuit alleges that Dental Studio 101 is a general and cosmetic dental studio practice.

4.4 The Underlying lawsuit further states that Dental Studio 101 has operated since 2005.

4.5 Borromeo, an Oregon dentist, is a member of the Oregon LLC known as Oregon Dental Studio 101.

4.6 It is alleged that prior to, in, or around December 2019, Oregon Dental Studio operated under the name Silverton Smile Dental Group, LLC.

4.7 It is further alleged that sometime in or around December 2019, Silverton Smile Dental Group, LLC, changed its name to Oregon Dental Studio 101, LLC.

4.8 Around this time, it is alleged that Oregon Dental Studio changed its website domain name to oregondentalstudio101.com.

4.9 The Underlying Lawsuit alleges that at the same time, Dental Studio 101 noticed a decrease in traffic to its website.

4.10 The Underlying Lawsuit alleges that at the same time, Oregon Dental Studio's website appeared virtually identical to Dental Studio 101's website and the content therein.

4.11 It is further alleged that a side-by-side comparison of the respective websites at that time revealed that Borromeo and Oregon Dental Studio carbon copied Dental Studio 101's website.

4.12 The Underlying Lawsuit alleges that Borromeo and Oregon Dental Studio added a biography page for the principal of Dental Studio 101, Dr. Megan Boyle, on the Oregon Dental Studio website purporting that she was affiliated with Borromeo and Oregon Dental Studio.

4.13 At no point, it is alleged, has Dr. Megan Boyle or Dental Studio 101 ever been associated with Oregon Dental Studio.

4.14 The Underlying Lawsuit alleges that Borromeo and Oregon Dental Studio included photos from Dental Studio 101 on the Oregon Dental Studio website to reflect further likeness and association with Dental Studio 101.

4.15 The Underlying Lawsuit further alleges that, due to Borromeo and Oregon Dental Studio's use of Dental Studio 101's website design, reference to Dr. Megan Boyle, and photos, Dental Studio 101 received numerous calls and inquiries mistaking Oregon Dental Studio with Dental Studio 101.

4.16 It is further alleged that Dental Studio 101 sent two cease-and-desist letters putting Borromeo and Oregon Dental Studio on notice of their alleged unlawful actions.

4.17 Despite the cease-and-desist letters, the Underlying Lawsuit alleges Borromeo and Oregon Dental Studio continue these alleged unlawful actions.

4.18 The Underlying Lawsuit alleges against Borromeo and Oregon Dental Studio claims for violation of the Lanham Act, intentional interference with a contractual or business expectancy, unfair competition, and injunctive relief.

4.19 The Underlying Lawsuit does not allege any bodily injury, property damage, or acts related to the practice of dentistry.

B. TDIC's Claims Handling and Investigation

4.20 Borromeo reported the Underlying Lawsuit to TDIC on or about October 27, 2023. Thereafter, TDIC promptly opened a claim and initiated its claims investigation.

4.21 TDIC issued a Coverage Position Letter to Borromeo on November 16, 2023.

C. The TDIC Policies

4.22 TDIC issued two policies of insurance to Borromeo.

4.23 TDIC issued a professional liability policy, number OR774, effective between August 15, 2019, and August 15, 2020 (the “2019-2020 Policy”) to the named insured Alfred M. Borromeo DDS.

4.24 The 2019-2020 Policy has a professional liability limit of \$1,000,000.

4.25 TDIC also issued a professional and dental business liability policy, number 0000016417, effective between August 1, 2023, and August 1, 2024 (the “2023-2024 Policy”) to named insured Alfred M. Borromeo DDS.

4.26 The 2023-2024 Policy has a professional liability limit of \$1,000,000 and a

business liability limit of \$1,000,000.

4.27 With respect to Coverage A – Professional Liability, the 2019-2020 Policy provides as follows:

II. COVERAGE AGREEMENTS

A. Professional Liability

We will pay the sums that an “Insured” is legally obligated to pay as “Damages” for a “Claim” because of a “Dental Incident” provided the “Claim” is first made during the “Policy Period” and the “Dental Incident” occurred on or after the “Retroactive Date”.

The amount we will pay for “Damage” is limited as described in IV. – Limits of Liability

PL0001 (01/2015)

4.28 The 2019-2020 Policy includes the following definitions which are relevant to the foregoing provisions:

I. DEFINITIONS

When used in reference to this insurance:

- a. “Claim”(s) means a demand for money or service because of an “Injury” arising out of a “Dental Incident”. All “Claims” made by one or more persons that arise out of the same “Dental Incident” or related “Dental Incidents” will be considered one “Claim”.
- b. “Damages” means any monetary amount the “Named Insured” is legally obligated to pay for a “Claim” covered by this insurance policy arising from a judgment or award, or from a settlement entered into by the “Named Insured” with our written consent and approval. [...]

[...]

- e. “Dental Incident” and “Dental Incidents” means the actual or alleged negligent act, or series of negligent acts, errors or omissions arising out of the rendering of, or failure to render “Dental Services” by the “Named Insured” or any person for whose negligent acts or omissions the “Named Insured” is legally responsible, and which are performed in the practice of the “Named Insured’s” profession as a Dentist or Oral Surgeon.
- f. “Dental Services” means:
 - i. The practice of Dentistry in the evaluation, diagnosis, prevention and treatment of human diseases, disorders and conditions of the oral cavity, the maxillofacial area and the adjacent and associated structures, within the Dentist’s scope of licensure and according to the standards and ethics of the profession and applicable law. “Dental Services” does not include “Medical Services”, unless the “Medical Services” are provided by an “Insured” who is an Oral Surgeon and are within the scope of licensure of the Oral Surgeon.

[...]

- 1. “Injury” means physical or mental illness, sickness, ailment, disease or death of a person which is the result of a “Dental Incident” that occurs after the “Retroactive Date” and prior to the policy expiration date.

PL0001 (01/2015)

4.29 The 2019-2020 Policy contains the following relevant exclusions:

III. EXCLUSIONS APPLICABLE TO PROFESSIONAL LIABILITY, FIRST AID, LICENSING BOARD OR GOVERNMENTAL REGULATORY BODY INVESTIGATION

Even if a “claim” that arises out of a “Dental Incident” is made against an “Insured” or there are costs related to

Licensing Board or “Governmental Regulatory Body” investigations, we will not pay sums that the “Named Insured” is legally obligated to pay as “Damages” for the “Claim” if the “Claim” wholly or partly arises out of, directly or indirectly results from, is a consequence of, or in any way involves:

- a. An “Insured’s” activities as an owner, a stockholder, a member of the board of directors, governor or trustees, a superintendent, an executive officer, a department head or a dental director of any hospital, sanitarium, clinic with bed and board facilities, infirmary, nursing home, foundation, surgicenter or blood bank, or of any commercial or other business enterprise of the “Insured” or a family member, employee or partner of the “Insured”. This exclusion shall not apply to responsibilities that require the special expertise or training of a Dentist and that are not principally executive or administrative in nature.
- b. Any act or omission, actual or alleged, which is also a violation of statute, ordinance or regulation imposing civil penalties, including but not limited to state or federal civil rights laws; state and federal laws on privacy and security of health and financial information; wage, hour or other employment laws; or employment discrimination laws.

[...]

- g. Any “Damages” that are covered under an employer’s liability, employment practices liability, automobile, fire, disability, or general liability insurance policy which applies to the “Insured”, or which would have applied if the “Insured” had obtained such a policy including without limitation:

[...]

[...]

- j. Business activities including any actual or alleged violation of any antitrust or similar laws, restraint of trade or contractual or business disputes, or disputes involving fees for “Dental Services”; but

this exclusion does not apply to the “Named Insured’s” activity at our request, as a participant in a “Peer Review Program”, provided such activity is within the scope of the “Peer Review Program’s” established guidelines.

[...]

- o. An act unrelated to the performance of “Dental Services” which constitutes professional misconduct as defined by the applicable licensing body of the state in which the “Insured’s” practice is located.

[...]

- q. A dishonest, fraudulent, criminal or malicious act(s) or omission(s) by an “Insured”.

PL0001 (01/2015)

4.30 With respect to Coverage A – Dentists Professional Liability, the 2023-2024 Policy provides as follows:

I. Coverage Agreements

A. Coverage A: Dentists Professional Liability

We will pay on the **insured’s** behalf all sums the **insured** becomes legally obligated to pay as **damages** for **bodily injury** caused by an **occurrence** that happens on or after **your retroactive date** if:

1. A **claim** for the **occurrence** is first made against the **insured** during the **policy period** or a **reporting period**, and
2. The **claim** is reported in writing to **us** no later than sixty (60) days after the end of the **policy period** in which the **claim** was first made against the **insured**, or within the **reporting period**, if any, in which the **claim** was first made.

3. All **claims**, whenever made, are treated as first made during the **policy period** or **reporting period** in which the earliest **claim** arising out of the same or **related occurrence** was first made against the **insured**. If the earliest such **claim** results from an **occurrence** reported to **us** under Section VII.B.3, all such **claims** are treated as having been first made when the **insured** reported the **occurrence** in compliance with that section.

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4.31 The 2023-2024 Policy includes the following definitions which are relevant to the foregoing provisions:

“Bodily injury” means physical injury, sickness, disease or disability, including death and, if arising out of the foregoing, emotional and mental anguish and injury.

“Claim” means a demand for money, services or property in satisfaction of a civil liability, including but not limited to **suits**. **Claim** does not include administrative, criminal or licensing or disciplinary proceedings or any proceeding before any self-regulatory organization.

[...]

“Occurrence” means:

1. With respect to Coverage A, any act or omission in the rendering of, or failure to render, **professional services** by **you** or any person for whose acts or omissions **you** are legally responsible, which results in **bodily injury** neither expected nor intended from **your** standpoint.

[...]

“Professional services” means the services a licensed dentist provides to patients in the lawful practice of dentistry in the state where **you** practice.

PBL2200-0115AS

4.32 The 2023-2024 Policy includes the following exclusions which are relevant to Coverage A – Dentists Professional Liability:

IV. Exclusions

*This insurance does not apply to any **insured(s)**, and we will not defend any **claim** or pay **defense costs**:*

A. Under any Coverage Agreement for:

[...]

11. Liability for any:

- a. Fraudulent, criminal or malicious act or omission by any **insured**;*
- b. Act of omission that any **insured** expects or intends to cause injury; or*

[...]

PBL2200-0115AS

4.33 With respect to Coverage B – Dental Business Liability, the 2023-2024 Policy provides as follows:

I. Coverage Agreements

[...]

B. Coverage B: Dental Business Liability

- 1. We will pay on the **insured's** behalf all sums the **insured** becomes legally obligated to pay as **damages** for **bodily injury**, **personal injury**, **advertising injury** or **property damage** if the injury or damage results from **your dental business operations**.*
- 2. This Coverage applies only to **bodily injury** and **property damage** that happens*

during the **policy period** and is caused by an **occurrence**.

3. This Coverage applies only to **personal injury** and **advertising injury** caused by a covered offense committed during the **policy period**.

PBL2200-0115AS

4.34 The 2023-2024 Policy includes the following definitions which are relevant to the foregoing provisions:

“Advertising” means an **insured’s** broadcast or publication of information or images to the general public, or to a particular segment of the market for **your** dental practice, for the purpose attracting patients, including such material contained on **your** website.

“Advertising injury” means injury arising out of one or more of the following offenses, occurring in the course of **advertising** **your** dental practice:

1. Broadcast or publication of material that slanders or libels a person or entity or disparages a person’s or entity’s good, products or services;
2. Broadcast or publication of material that violates a person’s right of privacy;
3. Misappropriation of **advertising** ideas or styles of doing business; or
4. Infringement of copyright, trademark, trade name, service mark, service name or slogan.

[...]

“Dental business operations” means the operations of **your** dental practice other than providing dental treatment to patients.

[...]

“Policy period” means the period of time from the Policy Period Effective Date specified in the Declarations Insert through the

Policy Period Expiration Date, or earlier if the policy is cancelled or otherwise terminated. The time the policy becomes effective and the time it expires is 12:01 a.m. at the Insured Location stated in the Declarations Insert. The **policy period** may be extended if **we** agree to do so.

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4.35 The 2023-2024 Policy includes the following exclusions which are relevant to Coverage B – Dental Business Liability:

IV. Exclusions

*This insurance does not apply to any **insured(s)**, and **we** will not defend any **claim** or pay **defense costs**:*

[...]

D. Under Coverage B for:

1. Liability for **personal injury** or **advertising injury** based on:
 - a. Publication or broadcast of material done by, at the direction of, or with the consent or knowledge of the **insured** if: (i) the **insured** expected or intended it to cause injury or (ii) the **insured** knew the publication or broadcast was in violation of any statute;
 - b. Publication or broadcast material, some or all of which was first broadcast or published before the **policy period**;
 - c. Publication or broadcast of any statement, image or on-line posting promoting, endorsing, recommending or **advertising** the products or services of any person or entity other than **you** and **your dental practice entity**;

d. Placement or appearance on **your** website of material that refers to or depicts the goods or services of others;

[...]

f. Content of another's website that appears on **your** website;

[...]

h. Violation of any federal, state or local statute, ordinance or regulation that prohibits or limits the sending or distribution of information, statements, images or other material, including but not limited to The Telephone Consumer Protection Act and The CAN-SPAM Act of 2003.

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V. THERE ARE ACTUAL JUSTICIALE CONTROVERSIES

5.1 TDIC incorporates by reference and realleges paragraphs 1.1 through 4.35 above as if fully set forth herein.

5.2 The 2019-2020 Policy's professional liability insuring agreement provides coverage for sums an insured becomes legally obligated to pay as damages for a "claim" because of a "dental incident" provided the claim is first made during the "policy period".

5.3 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit are because of a "dental incident" as that term is defined in the 2019-2020 Policy.

5.4 For coverage to apply under the 2019-2020 Policy requires that the "claim" be first made during the "policy period".

5.5 There is an actual and justiciable controversy whether the claim in the Underlying Lawsuit was made outside the pertinent policy period.

5.6 The 2019-2020 Policy excludes coverage for claims arising from the “insured’s” activities as an owner which do not require the special expertise or training of a dentist and that are principally executive or administrative in nature.

5.7 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit arise from Borromeo’s activities as an owner which do not require the special expertise or training of a dentist and that are principally executive or administrative in nature.

5.8 The 2019-2020 Policy excludes coverage for claims arising from any act or omission, actual or alleged, which is also a violation of statute, ordinance or regulation imposing civil penalties.

5.9 There is an actual and justiciable controversy whether the claims in the Underlying Lawsuit arise from an alleged act which is also a violation of statute, ordinance or regulation imposing civil penalties.

5.10 The 2019-2020 Policy excludes coverage for “damages” that are, or would be, covered under a general liability insurance policy.

5.11 There is an actual and justiciable controversy whether the “damages” claimed in the Underlying Lawsuit would be covered by a general liability insurance policy.

5.12 The 2019-2020 Policy excludes coverage for claims arising from business activities, including any actual or alleged violation of any antitrust or similar laws, restraint of trade or contractual or business disputes, or disputes involving fees for “Dental Services”.

5.13 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit arise out of business activities, including alleged violation of antitrust or similar laws, restraint of trade, or contractual or business disputes.

5.14 The 2019-2020 Policy excludes coverage for claims involving an act unrelated to the performance of “Dental Services” which constitutes professional misconduct as defined by the applicable licensing body of the state in which the “insured’s” practice is located.

5.15 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit involve an act unrelated to the performance of “Dental Services” which constitutes professional misconduct as defined by the licensing body in Oregon.

5.16 The 2019-2020 Policy excludes coverage for claims arising out of a dishonest, fraudulent, criminal or malicious act(s) or omission(s) by an “insured”.

5.17 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit arise from a dishonest, fraudulent, criminal or malicious act or omission of Borromeo.

5.18 The 2023-2024 Policy’s dentists professional liability insuring agreement provides coverage for sums the “insured” becomes legally obligated to pay as “damages” for “bodily injury” caused by an “occurrence”.

5.19 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit are for “bodily injury” as that term is defined in the 2023-2024 Policy.

5.20 The 2023-2024 Policy requires that the “bodily injury” be caused by an “occurrence”.

5.21 There is an actual and justiciable controversy whether some or all of the damages claimed in the Underlying Lawsuit are caused by an “occurrence” as that term is defined in the 2023-2024 Policy.

5.22 The 2023-2024 Policy excludes coverage for liability for any fraudulent, criminal or malicious act or omission by an “insured”.

5.23 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit involve any fraudulent, criminal or malicious act or omission by Borromeo.

5.24 The 2023-2024 Policy excludes coverage for liability for any act or omission that any “insured” expects or intends to cause injury.

5.25 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit involve an act or omission that Borromeo expected or intended to cause injury.

5.26 The 2023-2024 Policy’s dental business liability insuring agreement provides coverage for sums the insured becomes legally obligated to pay as damages for “bodily injury”, “personal injury”, “advertising injury” or “property damage” if the injury or damage results from the insured’s “dental business operations”.

5.27 The 2023-2024 Policy requires that the “bodily injury” or “property damage” happens during the “policy period” and is caused by an “occurrence”.

5.28 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit allege “bodily injury” or “property damage”.

5.29 There is an actual and justiciable controversy whether some or all of the claimed “bodily injury” or “property damage” in the Underlying Lawsuit happened during the 2023-2024 policy period.

5.30 There is an actual and justiciable controversy whether some or all of the claimed “bodily injury” or “property damage” in the Underlying Lawsuit was caused by an “occurrence”.

5.31 The 2023-2024 Policy requires that the “personal injury” and “advertising injury” be caused by an offense committed during the “policy period.”

5.32 There is an actual and justiciable controversy whether some or all of the claimed “personal injury” or “advertising injury” in the Underlying Lawsuit were caused by a covered offense committed during the 2023-2024 policy period.

5.33 The 2023-2024 Policy excludes coverage under Coverage B for the publication or broadcast of material done by, at the direction of, or with the consent or knowledge of the insured if the insured expected or intended it to cause injury.

5.34 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit involve the publication or broadcast of material with Borromeo’s knowledge which Borromeo expected or intended to cause injury.

5.35 The 2023-2024 Policy excludes coverage under Coverage B for the publication or broadcast of material done by, at the direction of, or with the consent or knowledge of the insured if the insured knew the publication or broadcast was in violation of any statute.

5.36 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit involve the publication or broadcast of material with Borromeo’s knowledge which Borromeo knew was in violation of any statute.

5.37 The 2023-2024 Policy excludes coverage under Coverage B for the publication or broadcast of material, some or all of which was first broadcast or published before the policy period.

5.38 There is an actual and justiciable controversy whether some or all of the alleged broadcast or publication of material in the Underlying Lawsuit was first broadcast or published before the 2023-2024 policy period.

5.39 The 2023-2024 Policy excludes coverage under Coverage B for the publication or broadcast of any statement, image or on-line posting promoting, endorsing, recommending, or advertising the products or services of any person or entity other than the insured and the insured's dental practice entity.

5.40 There is an actual and justiciable controversy whether some or all of the alleged publications or broadcasts in the Underlying Lawsuit involve any statement, image or on-line posting promoting, endorsing, recommending, or advertising the products or services of any person or entity other than Borromeo and his dental practice.

5.41 The 2023-2024 Policy excludes coverage under Coverage B for the placement or appearance on the insured's website of material that refers to or depicts the goods or services of others.

5.42 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit involve the placement or appearance of material on Borromeo's website that refers to or depicts the goods or services of others.

5.43 The 2023-2024 Policy excludes coverage under Coverage B for content of another's website that appears on the insured's website.

5.44 There is an actual and justiciable controversy whether some or all of the claims in the Underlying Lawsuit involve content of another's website appearing on Borromeo's website.

5.45 The 2023-2024 Policy excludes coverage under Coverage B for the violation of any federal, state or local statute, ordinance or regulation that prohibits or limits the sending or distribution of information, statements, images or other material.

5.46 There is an actual and justiciable controversy whether the claims in the Underlying Lawsuit involve the violation of any federal, state or local statute, ordinance or regulation that prohibits or limits the sending or distribution of information, statements, images or other material.

VI. REQUEST FOR DECLARATORY RELIEF

6.1 TDIC incorporates and realleges paragraphs 1.1 through 5.46 above as if fully set forth herein.

6.2 Actual and justiciable controversies exist as to whether there is any defense coverage available to Borromeo and/or Oregon Dental Studio 101 under the 2019-2020 Policy or 2023-2024 Policy for the claims asserted in the Underlying Lawsuit.

6.3 Actual and justiciable controversies exist as to whether there is any indemnity coverage available to Borromeo and/or Oregon Dental Studio 101 under the 2019-2020 Policy or 2023-2024 Policy for the claims asserted in the Underlying Lawsuit.

6.4 Pursuant to 28 U.S.C. §§ 2201 and 2202, TDIC seeks a judicial determination of its rights and duties under the 2019-2020 Policy and the 2023-2024 Policy.

6.5 TDIC respectfully requests that this Court grant declaratory relief entering a judicial determination that TDIC has no obligation to provide a defense for the claims against Borromeo and/or Oregon Dental Studio 101 in the Underlying Lawsuit under the TDIC Policies.

6.6 TDIC respectfully requests that this Court grant declaratory relief entering a judicial determination that TDIC has no obligation to provide any indemnity for the claims against Borromeo and/or Oregon Dental Studio 101 in the Underlying Lawsuit under the TDIC Policies.

VII. PRAYER FOR RELIEF

WHEREFORE, TDIC, having specifically alleged the foregoing, now requests the following relief:

7.1 For determination of the rights and obligations of the parties hereto under the 2019-2020 Policy.

7.2 For determination of the rights and obligations of the parties hereto under the 2023-2024 Policy.

7.3 For a declaration that there is no defense or indemnity coverage available to Borromeo under the policies of insurance issued by TDIC for the claims asserted against Borromeo in the Underlying Lawsuit.

7.4 For a declaration that there is no defense or indemnity coverage available to Oregon Dental Studio 101 under the policies of insurance issued by TDIC for the claims asserted against Oregon Dental Studio 101 in the Underlying Lawsuit.

7.5 For a declaration that Dental Studio 101 is bound by this Court's decision.

7.6 For all interest alleged by applicable law.

7.7 For attorney's fees and costs allowed by applicable statute and law.

7.8 For other and further relief as the Court deems just and equitable.

DATED this 17th day of November 2023.

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